

House Bill 1163

By: Representatives Harbin of the 118<sup>th</sup>, Cooper of the 41<sup>st</sup>, Powell of the 29<sup>th</sup>, Rogers of the 26<sup>th</sup>, Smith of the 113<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Article 3 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to the administration of the "Employment Security Law," so as to define certain terms; to provide that the Department of Labor shall develop a program of random drug testing of applicants for unemployment benefits; to provide for a review; to provide that any applicant who refuses to be tested or whose test results in a positive identification of certain substances shall be ineligible to receive benefits; to amend Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, the "Georgia Public Assistance Act of 1965," so as to define certain terms; to provide that the Department of Human Services shall develop a program of random drug testing of applicants for public assistance; to provide for a review; to provide that any applicant who refuses to be tested or whose test results in a positive identification of certain substances shall be ineligible to receive public assistance; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 3 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to the administration of the "Employment Security Law," is amended by adding a new Code section to read as follows:

"34-8-94.

(a) As used in this Code section, the term:

(1) 'Applicant' means a candidate who applies for unemployment benefits under this chapter.

(2) 'Established test' means the collection and testing of bodily fluids administered in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended).

(3) 'Illegal drug' means marijuana or any controlled substance or dangerous drug, as such terms are defined in Chapter 13 of Title 16. The term 'illegal drug' shall not include any

drug when used pursuant to a valid prescription or when used as otherwise authorized by state or federal law.

(4) 'Medical review officer' means a properly licensed physician who reviews and interprets results of drug testings and evaluates those results together with medical history or any other relevant biomedical information to confirm positive and negative results.

(b) The department is authorized and directed to establish a program of random drug testing for applicants.

(c) Any applicant selected for a drug test shall, prior to receiving a benefit, submit to an established test for illegal drugs. All costs of such testing shall be paid from public funds.

Any such test which indicates the presence of illegal drugs shall be followed by a confirmatory test using gas chromatography/mass spectrometry analysis. If the results of the confirmatory test indicate the presence of illegal drugs, such results shall be reviewed and interpreted by a medical review officer to determine if there is an alternative medical explanation. If the applicant provides appropriate documentation and the medical review officer determines that it was a legitimate usage of the substance, the result shall be reported as negative. Any applicant who fails to provide an alternative medical explanation shall be reported by the medical review officer as having a positive test result. In order to continue receiving benefits under this chapter, an applicant reported as having a positive test result shall be required to enroll in a drug counseling program approved by the department and, upon completion of the drug counseling program, a job training course approved by the department. Any applicant who refuses to submit to an established test for illegal drugs or whose test results are positive and such applicant refuses drug counseling shall be disqualified from receiving a benefit. Such disqualification shall not be removed for a period of two years from the date that such test was administered or offered, whichever is later. The department shall develop rules for the administration of the test and any verification procedures as provided in this Code section. The results of such tests shall remain confidential and shall not be a public record unless necessary for the administration of these provisions or otherwise mandated by other state or federal law."

## **SECTION 2.**

Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, the "Georgia Public Assistance Act of 1965," is amended by adding a new Code section to read as follows:

"49-4-4.1.

(a) As used in this Code section, the term:

(1) 'Applicant' means a candidate who applies for any form of public assistance.

(2) 'Established test' means the collection and testing of bodily fluids administered in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended).

(3) 'Illegal drug' means marijuana or any controlled substance or dangerous drug, as such terms are defined in Chapter 13 of Title 16. The term 'illegal drug' shall not include any drug when used pursuant to a valid prescription or when used as otherwise authorized by state or federal law.

(4) 'Medical review officer' means a properly licensed physician who reviews and interprets results of drug testings and evaluates those results together with medical history or any other relevant biomedical information to confirm positive and negative results.

(5) 'Public assistance' means payment in or by money, medical care, remedial care, goods, or services to or for the benefit of needy persons under any categories that may be established pursuant to this chapter.

(b) The department is authorized and directed to establish a program of random drug testing for adult applicants.

(c) Any applicant selected for a drug test shall, prior to receiving the public assistance requested or within ten days after the commencement of such assistance, submit to an established test for illegal drugs. All costs of such testing shall be paid from public funds. Any such test which indicates the presence of illegal drugs shall be followed by a confirmatory test using gas chromatography/mass spectrometry analysis. If the results of the confirmatory test indicate the presence of illegal drugs, such results shall be reviewed and interpreted by a medical review officer to determine if there is an alternative medical explanation. If the applicant provides appropriate documentation and the medical review officer determines that it was a legitimate usage of the substance, the result shall be reported as negative. Any applicant who fails to provide an alternative medical explanation shall be reported by the medical review officer as having a positive test result. In order to continue receiving public assistance under this chapter, an applicant reported as having a positive test result shall be required to enroll in a drug counseling program approved by the department and, upon completion of the drug counseling program, a job training course approved by the department. Any applicant who refuses to submit to an established test for illegal drugs or whose test results are positive and such applicant refuses drug counseling shall be disqualified from receiving public assistance. Such disqualification shall not be removed for a period of two years from the date that such test was administered or offered, whichever is later. The department shall develop rules for the administration of the test and any verification procedures as provided in this Code section. The results of such tests shall remain confidential and shall not be a public record unless necessary for the administration of these provisions or otherwise mandated by other state or federal law."

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**SECTION 3.**

99 All laws and parts of laws in conflict with this Act are repealed.